

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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James H. Dillard II,

Case No. 2:23-cv-01242-CDS-DJA

Plaintiff,

Order

V.

Damon Lovell, Marquis Edwards, and Kenneth Rucker,

Defendants.

The Court previously granted Plaintiff's request to proceed *in forma pauperis* and screened the complaint pursuant to 28 U.S.C. § 1915. (ECF No. 3). In doing so, the Court found that Plaintiff's complaint was deficient. (*Id.*). As a result, the Court dismissed Plaintiff's complaint on October 27, 2023 and granted Plaintiff leave to amend the complaint, requiring that an amended complaint be filed within 30 days, which has since passed. (*Id.*). The Court stated, “[f]ailure to comply with this order will result in the recommended dismissal of this case.” (*Id.* at 4). To date, the Court has not received an amended complaint or any request to extend the deadline for filing one.

Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** without prejudice. The Clerk of Court is kindly directed to mail this recommendation to Plaintiff.

NOTICE

Pursuant to Local Rule IB 3-2 any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within (14) days after service of this Notice. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985), *reh'g denied*, 474 U.S. 1111 (1986). The Ninth Circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable

1 issues waives the right to appeal the District Court's order and/or appeal factual issues from the
2 order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*
3 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

4 DATED: February 5, 2024

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DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE